

The Honorable James L. Robart

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

John Doe, Jack Doe, Jason Doe, Joseph Doe,
James Doe, Jeffrey Doe, individually, and on
behalf of all others similarly situated; the
Episcopal Diocese of Olympia; and the
Council on American-Islamic Relations-
Washington,

Plaintiffs,

v.

Donald Trump, in his official capacity as
President of the United States; U.S.
Department of State; Rex Tillerson, in his
official capacity as Secretary of State; U.S.
Department of Homeland Security; Elaine
Duke, in her official capacity as Acting
Secretary of Homeland Security; U.S. Customs
and Border Protection; Kevin McAleenan, in
his official capacity as Acting Commissioner
of U.S. Customs and Border Protection;
Michele James, in her official capacity as Field
Director of the Seattle Field Office of U.S.
Customs and Border Protection; Office of the
Director of National Intelligence; and Daniel
Coats, in his official capacity as Director of
National Intelligence,

Defendants.

No. 2:17-cv-00178 (JLR)

**DECLARATION OF JENNIFER B.
HIGGINS IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFF JOSEPH DOE'S
MOTION FOR PRELIMINARY
INJUNCTION**

I, Jennifer B. Higgins, for my declaration pursuant to 28 U.S.C. § 1746, hereby state and
depose as follows:

1 1. I am the Associate Director of the Refugee, Asylum and International Operations
 2 (RAIO) Directorate, within the United States Department of Homeland Security (DHS). I have
 3 held this position since 2017. In my current position, I oversee RAIO operations, which
 4 includes conducting refugee processing activities in more than 67 international locations;
 5 processing requests for asylum at eight Asylum offices domestically; and providing
 6 immigration services at U.S. Citizenship and Immigration Services (USCIS) offices in 21
 7 countries abroad. I submit this declaration in support of Defendants' Opposition to Plaintiff
 8 Joseph Doe's Motion for Preliminary Injunction. The statements made herein are based on my
 9 personal knowledge and information made available to me in the course of carrying out my
 10 duties and responsibilities as Associate Director.

11 2. There are two ways for spouses and unmarried children of refugees to come to the
 12 United States as derivative refugees: 1) as derivatives processed with the principal refugee
 13 through the U.S. Refugee Admissions Program (USRAP) ("accompanying derivative
 14 refugees"); or 2) as beneficiaries of approved Forms I-730, Refugee/Asylee Relative Petitions
 15 (Form I-730), filed by principal refugees already admitted to the United States as refugees
 16 ("following-to-join derivative refugees"). In either case, the spouse or unmarried child is
 17 admitted as a refugee and counts against the annual refugee ceiling.

18 3. While the substantive criteria for admission as a derivative refugee are the same
 19 regardless of whether the qualified family member is processed with the principal refugee
 20 through the USRAP or as a following-to-join refugee through the Form I-730 process, the
 21 operational processes and responsible parties processing these types of cases differ. As a result,
 22 the vetting associated with these two processes has somewhat diverged over the years,
 23 particularly as the DHS, the Department of State (DOS) and our vetting partners have enhanced
 24 screening for refugees coming through the USRAP. Subject to age or nationality requirements,¹

25 ¹ Individuals of certain age and nationality (and previously gender) may be subject to additional checks,
 26 such as the Security Advisory Opinions (SAOs). If the principal refugee is from a country for which an SAO check
 is required, but the derivative refugee spouse is from a non-SAO country, the spouse would not receive the exact
 same screening as the principal refugee.

1 a spouse or child listed as a derivative on the principal applicant's Form I-590 who is also
2 processed at the same time as the principal refugee applicant receives the same vetting as the
3 principal refugee applicant. However, if that same spouse or child were to come to the United
4 States as a following-to-join refugee through the Form I-730 process, in most cases, he or she
5 would currently not receive the same screening.

6 4. Pursuant to Section 6(a) of Executive Order 13780, *Protecting the Nation from Foreign*
7 *Terrorist Entry into the United States*, a 120-day review was conducted of the USRAP. Based
8 on this review, the Secretaries of State and Homeland Security and the Director of National
9 Intelligence made a joint determination that certain additional procedures were necessary to
10 enhance the refugee application and adjudication processes. This joint determination included
11 instituting procedures to more closely align the vetting for Form I-730 refugee beneficiaries
12 with that of refugees admitted under the USRAP.

13 5. Under the Form I-730 process, a principal refugee may file a Form I-730 with USCIS
14 within two years following admission as a refugee to request that a spouse or unmarried child
15 follow-to-join him or her in the United States. As in the case of a spouse or child
16 accompanying the principal refugee processed through the USRAP, the Form I-730 petitioner
17 must establish the existence of the qualifying relationship and that the beneficiary is admissible.
18 Unlike the principal refugee, however, a Form I-730 refugee beneficiary does not need to
19 establish past persecution or a well-founded fear of persecution based on a protected ground.

20 6. To initiate the Form I-730 process, the U.S.-based principal refugee (petitioner) files a
21 Form I-730 with USCIS Service Center Operations (SCOPS). SCOPS reviews the Form I-730,
22 supporting documentation, and the Alien File for the petitioner and beneficiary, if available.
23 SCOPS evaluates whether the petition is timely, whether the requisite relationship exists, and
24 whether there is any evidence indicating that the beneficiary may be inadmissible.

25 7. If SCOPS finds that the petitioner is ineligible to file or is unable to establish eligibility
26 of the beneficiary, SCOPS will deny the Form I-730 and notify the petitioner. If SCOPS finds

1 that the beneficiary is eligible, SCOPS will take one of two actions, depending on whether a
2 USCIS officer or DOS consular officer will process the beneficiary abroad.

3 8. If the beneficiary is located abroad in a country where USCIS does not have an
4 international office, SCOPS will approve the Form I-730 and send it via the Department of State
5 National Visa Center (NVC) to the appropriate U.S. Embassy or Consulate for a consular
6 officer to make a travel eligibility determination. After collection of biometrics, interview,
7 security vetting, and medical examination, a consular officer is responsible for confirming the
8 validity of the relationship and determining whether the beneficiary is subject to any applicable
9 inadmissibility grounds. If the consular officer finds that the relationship is bona fide and no
10 inadmissibility grounds apply, DOS will coordinate with the Refugee Processing Center (RPC),
11 which is operated by the Bureau of Population, Refugees and Migration (PRM) at the
12 Department of State and which supports the USRAP, to obtain an assurance for the beneficiary,
13 meaning that a resettlement agency in the United States will be prepared to receive the
14 beneficiary upon arrival and reunite the beneficiary with the principal refugee.

15 9. If the beneficiary is located abroad in one of the 21 countries where USCIS has an
16 international field office, SCOPS sends the Form I-730 to the NVC where it is then forwarded
17 to the proper USCIS international field office for final adjudication after collection of
18 biometrics, interview, security vetting, and medical examination. A USCIS adjudications
19 officer stationed abroad will make the final determination on whether to approve or deny the
20 Form I-730 and, if approved, will coordinate with the RPC for the beneficiary's sponsorship
21 assurance.

22 10. Once assurance is obtained in either situation, and the medical examination and security
23 vetting are successfully completed, DOS or USCIS will issue travel authorization documents in
24 the form of a boarding document. This boarding document allows an eligible beneficiary to
25 travel to the United States to request admission as a refugee. Customs and Border Protection
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1 determines admissibility at the port of entry and, if admissible, the beneficiary is admitted to the
2 United States as a refugee.

3 11. In two countries only—Thailand and Kenya—USCIS processes Forms I-730 with the
4 support of DOS-funded Resettlement Support Centers (RSCs) particularly to help facilitate
5 processing in refugee camps in those locations where neither USCIS nor DOS consular staff
6 have a presence.² The RSC carries out administrative and processing functions for Form I-730
7 refugee beneficiaries in these two countries pursuant to cooperative agreements between PRM
8 of DOS and non-governmental organizations. This RSC support enables USCIS to process
9 Form I-730 refugee beneficiaries in these countries using the same processes as used for
10 principal refugee applicants, including intake, data collection, and use of the USRAP case
11 management system for communicating information with vetting partners. As such, in these
12 locations only, subject to age and nationality requirements, the security vetting received for a
13 Form I-730 beneficiary is the same as the screening received for principal refugee applicants.
14 Because the screening for principal and following-to-join refugee applicants is already aligned
15 in these locations, no changes were needed to address the concerns identified in the joint
16 determination in these locations. Therefore, the Government is continuing to issue travel
17 authorization to following-to-join refugees with approved Forms I-730 who have had their
18 Forms I-730 processed by an RSC in Thailand or Kenya, subject to other restrictions on refugee
19 admissions.

20 12. As noted in paragraph 3, the vetting protocols for principal refugee applicants and their
21 accompanying family members have been enhanced over time and diverged from the vetting
22 protocols for Form I-730 refugee following-to-join family members, which are handled through
23 different processes and by different parties. As such, when a USCIS international field office
24 (without the assistance of an RSC), as described in paragraph 9, or a DOS consular officer, as
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26 ² RSCs provide support in Kenya and Thailand because a number of Form I-730 refugee beneficiaries
reside in refugee camps in those countries, making it difficult for applicants to independently arrange for travel to
the U.S. Embassy for interview.

1 described in paragraph 8, processes the Form I-730, the beneficiary does not receive the same
2 Inter-Agency Check (IAC) as a principal refugee applicant. The check differs both in terms of
3 the information sent to vetting partners for review and which vetting partners conduct the
4 review. The systems used to initiate checks for Form I-730 following-to-join derivative refugee
5 applicants do not contain the same amount of biographic information as the system used to
6 initiate checks for accompanying derivative refugee applicants, nor do the systems
7 communicate with all the same vetting partners.

8 13. Pursuant to the October 23, 2017 Joint Memorandum to the President, titled *Resuming*
9 *the United States Refugee Admissions Program with Enhanced Vetting Capabilities*, and in
10 order to more closely align the Form I-730 vetting processes for following-to-join refugee
11 applicants with that of principal refugee applicants (and other accompanying derivative refugee
12 applicants processed with the principal refugee applicant), USCIS and DOS will make changes
13 to their procedures and vetting protocols. Aligning Form I-730 screening processes for
14 following-to-join derivatives with that of principal refugee applicants will require modifications
15 both to the processes carried out by posts abroad and to the technical platforms which support
16 those processes.

17 14. Additionally, USCIS and DOS must put into place procedures to institute Enhanced
18 Fraud Detection and Nationality Security Review (EFR) for Form I-730 beneficiaries who are
19 nationals of countries subject to Security Advisory Opinions (SAOs), as is currently conducted
20 for principal refugee applicants and accompanying derivative family members who receive
21 SAOs.

22 15. To make the changes noted above in paragraphs 13 and 14 and more closely align
23 screening for all refugee applicants, USCIS is in the process of implementing procedures to
24 request that Form I-730 beneficiaries submit completed Forms I-590 earlier in the process, as
25 opposed to requesting that a beneficiary bring the Form I-590 to the interview as is currently
26 done. This change will enable USCIS to initiate certain checks earlier in the process and

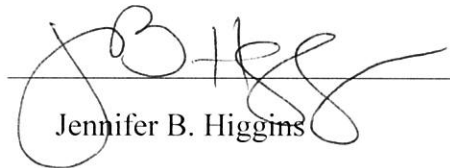
1 provide any resulting information to the USCIS or DOS officer prior to the interview. Having
2 information from certain checks prior to the interview strengthens the value of the interview by
3 leading to more informed lines of questioning and also allows USCIS and DOS to input
4 necessary information into systems to enable screening partners to conduct more complete
5 checks.

6 16. Alignment of vetting requires systems changes, as well as development of notices and
7 new procedural guidance for implementing staff. It also requires working with DOS to institute
8 procedures to ensure that in all locations abroad, regardless of whether USCIS or DOS
9 processes the case, the full IAC is completed, as well as EFR where required. DOS is currently
10 analyzing the procedures with interagency partners to determine the magnitude of the
11 modifications that will be required. USCIS and DOS will continue working in earnest to make
12 necessary changes and are committed to instituting new procedures as expeditiously as possible.

13 I declare under penalty of perjury that the foregoing is true and correct. Executed on

14 November 16, 2017.

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Jennifer B. Higgins